

Attw

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application of: Karen Rachel Beber FUTERNICK

Confirmation No.: 8437

Application No.: 10/615,872

Group Art Unit: 3727

Filed: July 10, 2003

Examiner: Joseph C. Merek

For: STACKABLE COOLER

Attorney Docket No.: 81817-4000

RESPONSE TO OFFICE COMMUNICATION

Mail Stop AF

Commissioner for Patents

P.O. Box 1450

Alexandria VA 22313-1450

Sir:

In response to the Office Communication mailed on December 29, 2004, Applicant requests entry of the following comments into the file of the application.

The Communication alleges that the Response filed on October 19, 2004 was not fully responsive to the Election Requirement that was mailed on September 22, 2004. The Election Requirement required an election between two species, identified as "Group A" and "Group B". The Applicant filed a Response to Election Requirement on October 19, 2004, provisionally electing the species of Group B and indicating the Applicant's belief that all claims are readable on the elected species.

The Examiner contends in the present communication that the reply was not fully responsive because he disagrees about whether claim 15 reads on the elected species of Fig. 9, which the Examiner describes as not showing a wall as being removable.

The Applicant, however, respectfully points out that the perspective angle of the drawing in Fig. 9 covers the seam at which a removable portion of the wall may be attached. The application does not state that the wall cannot be removable in Fig. 9, and the feature of a removable wall is not mutually exclusive with the feature of a hinged portion of an outer wall, which is specifically the focus of Fig. 9. As it is known that various features of the various embodiments disclosed can

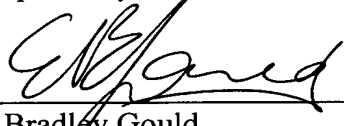
be combined with each other, and the combination would have been within the possession of the Applicant at the time of the invention, Applicant maintains that claim 15 does not exclude the species shown in Fig. 9.

Since the Response to the Election Requirement included a provisional election of species and an indication of which claims are believed to correspond to that species, the response that was filed on October 19, 2004 was indeed fully responsive. Consequently, Applicant respectfully requests that any finding of non-responsiveness be withdrawn and should not have any adverse effect on a calculation of patent term extension to which this application may ultimately be entitled. The question of which claims correspond to which species would more properly be addressed in an Office Action and not on the grounds that the previous response may not have been fully responsive.

The Examiner is thus requested to examine the pending claims on their merits. No fee is believed to be due for this submission. Should any fee be required, however, please charge such fees to Winston & Strawn LLP Deposit Account No. 50-1814

Jan. 31, 2005
Date

Respectfully submitted,



E. Bradley Gould (Reg. No. 41,792)
For: Allan A. Fanucci (Reg. No. 30,256)

WINSTON & STRAWN LLP
Customer No. 28765
(202) 371-5771